

Special Rapporteur on extrajudicial, summary or arbitrary executions A/HRC/14/24/Add.1 para 449

Full recommendation:

I would therefore respectfully request your Government to take all necessary steps to ensure that Mr. Haddadi is not executed tomorrow. Moreover, in order to ensure compliance with the absolute ban of the death sentence against juvenile offenders in international human rights law, the death sentence will have to be commuted.

Assessment using Impact Iran human rights indicators¹

Mr. Mohammadreza Haddadi was arrested in 2002 at the age of 15 for committing murder during a car robbery. According to Iran Human Rights, he had initially plead guilty, but later explained that his two co-defendants had bribed him into taking sole responsibility for the murder (he was told that he would not receive the death penalty since he was underage)². On 6 January 2004, Mr. Haddadi was sentenced to the punishment of *qisas* (punishment of retribution in kind), the death penalty, for the murder of Mohammad Bagher Rahmat. Since the trial, the execution of Mr. Haddadi has been postponed and canceled at least six times.³ Mr. Haddadi has been in death row for 16 years. The case of Mr. Haddadi was the subject of another special procedures' communication in 2016.⁴

The Islamic Penal Code (2013)⁵ establishes the age of criminal responsibility at 9 lunar years for girls and 15 lunar years for boys.⁶ However, the age of responsibility for *ta'zir* crimes (crimes for which fixed penalties are not provided in Islamic law giving the judge discretion as to the sentence imposed) is 18 years for all children. For these crimes, convicted children are sentenced to correctional measures or alternative punishments. In contrast, criminal responsibility for crimes punishable by *hudud* (punishments fixed by God) or *qisas*, which carry mandatory punishments such as death, is maintained at the age of "maturity", which is 9 lunar years for girls and 15 lunar years for boys.

In *qisas* cases, the pardon or commutation of the sentence is based solely on the request of the victim or the victim's guardian, which deprives the child of his or her right to seek pardon or commutation from the State.⁷ Answering to the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran for its January 2019 report, the Government referred to a number of institutions which can intervene to mediate cases of children sentenced with *qisas*,

¹ CCPR.6.5.S.1
CCPR.6.5.P.1
CCPR.6.5.O.5

² : <https://iranhr.net/en/articles/4392/>

³ Amnesty International, <https://www.amnesty.org/en/latest/campaigns/2018/10/death-penalty-iran/>

⁴ UN Special Procedures Communication IRN 18/2016, <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3194>

⁵ Article 146 and 147, Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

⁶ Article 1210, note 1

⁷ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/021/61/PDF/G1902161.pdf?OpenElement>

notably in order to commute *qisas* into *diya* sentences (blood money).⁸ These institutions include a reconciliation commission, a working group tasked to support mediation with the next of kin victim, conflict resolution council branches and the Women and Children and Protection Office of the judiciary.⁹

In 2016, Mr. Haddadi's court-appointed lawyer filed a request to review Mr. Haddadi's case pursuant to Article 91 of the Islamic Penal Code (2013).¹⁰ Article 91 allows judges to pronounce alternative sentences in circumstances where the juveniles “do not realize the nature of the crime committed or its prohibition, or if there is uncertainty about their full mental development, according to their age”.¹¹ The Article further adds that “the court may ask the opinion of forensic medicine or resort to any other method that it sees appropriate in order to establish the full mental development”.¹² In 2017, a number of special procedure mandate holders described ongoing executions in the Islamic Republic of Iran as “conclusive proof of the failure of the 2013 amendments to stop the execution of individuals sentenced to death as children”.¹³ In 2019, the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran found that the aforementioned assessment of the mental development of the accused at the time of the offence was “arbitrary and inconsistent, and at the sole discretion of the judge, who can choose whether to seek medical advice or not”.¹⁴

The Government of the Islamic Republic of Iran answered the 2016 Special Procedures' communication and confirmed that Mr. Haddadi had been sentenced to *qisas* and 16 years imprisonment, a verdict upheld by the Supreme Court. The Government added that following the review requested under Article 91 of the Islamic Penal Code (2013), the department of justice of the Fars Province established that Mr. Haddadi was aware and had knowledge of the crime and its consequences; subsequently the death penalty was permitted by the court. It was however reported that the forensic doctor assigned to the case of Mr. Haddadi confirmed that the accused had not reached maturity at the time of the crime and arrest.¹⁵ The Government further addressed the work of the reconciliation commission and the working group on “prevention of life deprivation punishment”, a subset of the executive committee of defending the rights of children and juveniles in the Supreme Court. However, the Government did not mention whether these institutions engaged with the case of Mr. Haddadi.¹⁶

⁸ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

⁹ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

¹⁰ UN Special Procedures Communication IRN 18/2016,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=3194>

¹¹ Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>

¹² Islamic Penal Code (2013), English translation, Iran Human Rights Documentation Center, <https://iranhrdc.org/english-translation-of-books-i-ii-of-the-new-islamic-penal-code/>.

¹³ OHCHR News, www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21547&LangID=E

¹⁴ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

¹⁵ Iran Human Rights, <https://iranhr.net/en/articles/4392/>

¹⁶ Reply of the Government of the Islamic Republic of Iran to the UN Special Procedures Communication IRN 18/2016, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=33292>

The sentence and potential application of the death penalty against Mr. Haddadi represent a violation of Articles 6(5) of the International Covenant on Civil and Political Rights and 37(a) of the Convention on the Rights of the Child. The Human Rights Committee has further stipulated that the death penalty cannot be imposed if it cannot be proven, beyond reasonable doubt, that the accused was older than 18 years old at the time of the offence.¹⁷ Additionally, despite the Government's disagreement with this fact, the prohibition of imposing the death penalty on children is widely considered to be *jus cogens* under international law.¹⁸ While Mr. Haddadi was not executed on 9 December 2009, the Supreme Court upheld for a second time the death sentence against Mr. Haddadi, who may now be executed at any moment. There is no available information that might indicate that the State took necessary -any- steps to commute Mr. Haddadi's death sentence.¹⁹

Recommendation Status:

This recommendation has **NOT** been implemented.

¹⁷ UN Human Rights Committee (HRC), General comment no. 36, Article 6 (Right to Life), 3 September 2019, CCPR/C/GC/35, available at: <https://www.refworld.org/docid/5e5e75e04.html>

¹⁸ Report of the Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, January 2019, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F40%2F67&Language=E&DeviceType=Desktop>

¹⁹ See more : Abdorrahman Boroumand Center <https://www.iranrights.org/newsletter/issue/79>